

Remarks

1. Summary of Office Action

In the office action mailed June 3, 2005, the Examiner rejected claims 1-19 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,321,090 (Soliman).

2. Status of Claims

Applicant has amended claims 5, 9, 18, and 19 to recite that the determined physical position of the mobile station is used as a basis to establish the proposed set of active sectors. Still pending are claims 5-19, of which claims 5, 17, 18, and 19 are independent and the remainder are dependent.

3. Response to Rejections

Under M.P.E.P. § 2131, a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. Applicant respectfully traverses the rejections of claims 5-19 (including the amended claims), because Soliman does not disclose or suggest each and every element of any of these claims.

a. Independent Claim 5

The presently claimed invention is directed to a method and system for establishing an active set for a mobile station operating in a cellular wireless network. As recited in claim 5, the invention involves determining the physical position of a mobile station, using the physical position of the mobile station as a basis to establish a proposed set of active sectors, and using the physical position of the mobile station as a basis to select a subset of active sectors from the proposed set of active sectors, the subset of active sectors defining the active set.

Soliman teaches a method of selecting a target cell to which a mobile station should hand off. According to Soliman, a base station begins to track the position of the mobile station once the mobile station enters a "handoff region" (i.e., when the mobile station begins receiving pilot signals associated with the handoff region). The base station then determines when the position of the mobile station falls within a "hard handoff region," predefined by geographic location coordinate data. Once the mobile station is in the hard handoff region, the base station then dips into correlation data to identify a single target cell corresponding with the mobile station's current position. (See Soliman, columns 5-9).

As such, Soliman does not teach using the mobile station's position to establish a proposed set of active sectors and then using the mobile station's position to select a subset of active sectors from the proposed set. Rather, at best, Soliman teaches merely (i) determining when the mobile station is in a predefined hard handoff region, and then (iii) determining what target cell corresponds with the mobile station current position. Yet Soliman does not teach that the act of determining when the mobile station is in the predefined hard handoff region involves establishing what cells (or sectors) make up that hard handoff region, and more specifically Soliman does not teach that that act involves establishing a proposed set of cells (or sectors) as recited in claim 5.

Thus, although Soliman teaches selecting a target cell based on the mobile station's current position, Soliman does not teach first establishing a proposed set of active sectors (or cells) and then using the mobile station's position as a basis to select a subset of active sectors (or cells) from that proposed set, as recited in claim 5.

Because Soliman does not teach or suggest all of the elements recited in claim 5, Soliman fails to anticipate claim 5 under § 102.

b. Dependent Claims 6-16

Claims 6-16 depend from claim 5 and necessarily incorporate all of the elements of claim 5. As noted above, Soliman does not teach all of the elements recited in claim 5. It follows that Soliman also fails to anticipate claims 6-16. Applicant does not acquiesce in the assertions that the Examiner made more specifically regarding claims 6-16, but Applicant submits that those assertions are moot in view of the fact that Soliman fails to anticipate these claims for the reasons discussed above.

c. Independent Claim 17

Independent claim 17, like dependent claim 5, recites determining a physical position of the mobile station, using the physical position as a basis to establish a set of sectors, and selecting from the set a subset of sectors (at most two sectors) to which the mobile station is closest, the subset defining an active set. For at least the same reasons that Soliman fails to anticipate claim 5, Applicant thus submits that Soliman fails to anticipate claim 17.

d. Independent Claims 18 and 19

Independent claims 18 and 19, like independent claim 5, each recite the functions of determining the physical position of a mobile station, using the physical position as a basis to establish a proposed set of active sectors, and using the physical position as a basis to select a subset of active sectors from the proposed set of active sectors. For at least the same reasons that Soliman fails to anticipate claim 5, Applicant thus submits that Soliman also fails to anticipate claims 18 and 19.

4. Conclusion

Because Soliman fails to disclose all of the elements of any of Applicant's claims 5-19, Applicant respectfully submits that claims 5-19 are in condition for allowance. Applicant therefore respectfully requests favorable reconsideration. Should the Examiner wish to discuss this case, the Examiner is invited to call the undersigned at (312) 913-2141.

Respectfully submitted,

**MCDONNELL BOEHNEN
HULBERT & BERGHOFF LLP**

Date: August 25, 2005

By: 

Lawrence H. Aaronson
Reg. No. 35,818